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## Being Out and Fitting In

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# Being Out and Fitting In

Susan J. Becker

I stare at the computer screen before me, blank except for the working title of this essay. I have just concluded the fall semester of my sixth year as a professor of law, and the usual year-end demands have left me physically exhausted and emotionally drained. I have grown especially weary of trying to enlighten others on the "lesbian experience" and of being the sole faculty member that students and colleagues at my school consult as the "expert" when any sexual orientation issue, whether profound or inconsequential, arises.

And yet I eagerly embrace this opportunity to share the many issues with which I struggled before deciding to make my sexual orientation public and the resulting challenges and rewards of being an "out" law teacher. As an African-American friend who is frequently consulted as the voice of the "black experience" once told me: "If you don't bring your issues to the table, nobody else is going to raise them for you. You've got be there." So here I am at your table.

By being "out," I mean that I raise issues relating to sexual minorities where relevant, advocate our positions where necessary, and participate in school social events with my life partner by my side. For me, being out is a continuing process, not an event. I do not, for example, feel compelled to announce my sexual orientation to each incoming group of students or to new faculty and staff. I view my sexual orientation as one tidbit of tribal knowledge which is eventually assimilated by almost everyone who participates in the law school community.

I am a tenured associate professor who has taught Contracts, Civil Procedure, Pretrial Practice, Remedies, and Fair Employment Practices. I actively participate in all aspects of my school's mission by serving as faculty adviser to several student groups, supervising externs, working on numerous committees, and maintaining an open-door policy for students and colleagues. My scholarship focuses primarily on practice-related issues and civil justice reform. The one article I published that dealt with sexual orientation, which I hoped and feared might be controversial, fell like the proverbial tree in a forest. I maintain a modest pro bono litigation docket to keep me connected to the realities of legal practice. I love this job. Let me tell you how I got here.

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I was born in 1955 to a Baptist mother and a Roman Catholic father, neither of whom paid much attention to religion. For reasons never quite clear to me, my parents decided that their two children would be raised as God-fearing Friday-meat-abstaining miss-Mass-once-and-you-go-to-Hell Catholics. I was educated in Catholic schools through my sophomore year in college.

My religious background may seem irrelevant to an essay about sexual orientation and teaching, but anyone raised in a rule-bound religion understands its import. From my earliest memory, the Church set the rules for my every thought, word, and deed, and I embraced its mandates with blind faith. Heterosexuality was (and is) the rule; any deviation is a sin which results in eternal damnation.

Living by rules established by others can be quite comfortable for a while, but there comes a time when one starts questioning those rules governing her life. The day of reckoning arrived for me when, at fourteen, I developed serious crushes on the cheerleaders rather than the football players. The Baltimore Catechism provided no help in this situation.

I dealt with my sexual orientation mainly by keeping it a secret, but there was another development on the gender front that I had to face. Until I was sixteen or so, I had been informed, expressly and by example, that women's career options were pretty much limited to teaching, nursing, or a religious calling. But in the early 1970s a new message blared from every medium: *Women can be anything they want to be.*

This message seemed more a burden than a cause for celebration. Women were suddenly expected to compete in a man's world sans the self-confidence and other survival skills instilled in our male counterparts since birth. Girls who had been standing on the sidelines cheering the boys' successes were suddenly told to suit up and get in the game. Now my career choice would not necessarily be defined by my gender. And my sexual orientation became a much more significant factor in my career decisions.

I went through five different majors at two colleges and somehow still managed to complete a B.A. in journalism in four years. The semester or two I spent majoring in physical education was by far my most enjoyable time, but I was uncomfortable with a career choice that furthered a stereotype. Journalism was not a bad second choice. At least I had a role model, albeit a fictional one, in Lois Lane—the true hero of the Superman comics.

Several twists of fate led me to Cleveland, Ohio, in the spring of 1977. I found employment working part time as a hotel desk clerk and picking up freelance writing assignments. Eventually I worked my way into a full-time position as a journalist and photographer with a weekly suburban newspaper. I was generally happy as a journalist. One reason was that my sexual orientation was never questioned. My editor and coworkers knew I lived with a woman and probably guessed that we were more than friends, but as long as I met my deadlines no one much cared about my personal life.

After three years at the newspaper I started looking to expand my career opportunities. I applied to the Cleveland-Marshall College of Law on some-

thing of a whim. I did not know many lawyers, and I had no idea what lawyers actually did for a living. I did know, however, that writers with backgrounds in areas like law, engineering, and computers made decent salaries and did not have to write story after story about why the local landfill stinks or take pictures of grown men shooting basketballs while riding undersized and overwrought donkeys.

My law school years were both excruciating and enjoyable. I have always loved academia and readily embraced the new challenge. The intensity of the program rendered my personal life virtually nonexistent, and my sexual orientation proved neither a help nor a hindrance. But one incident during a Family Law class remains vivid and painful.

The city of San Francisco had just enacted legislation to extend benefits to domestic partners of city employees. Although this had nothing to do with the material being covered in class that day, the teacher brought it to our attention and then proceeded to rail against the extension of such benefits to homosexuals. His final statement was that he didn't care what homosexuals did in private but they should keep their hands off his wallet.

The class was silent and my face was burning as he moved on to the planned topic for the day. I had never before considered all the programs that I underwrite for my heterosexual counterparts—such as health insurance for their spouses and school levies for their children—as an inappropriate drain on my resources. I viewed the San Francisco measure as a small but important victory on the road to equal rights, and here was a law professor—whom until that point I had respected—angrily resenting the idea that *his* dollars should benefit *me*.

When I graduated, I commenced a two-year clerkship with a judge on the U.S. Court of Appeals for the Sixth Circuit. I still see his face every time I hear the term “far right.” I am sure he did not know I was a Democrat, much less a lesbian one. He was not assigned any cases dealing with sexual orientation during the two years I worked for him, but my assumption of his anti-gay animus was confirmed a decade later: he wrote a decision upholding the Cincinnati ballot initiative which barred the city from enacting any legislation extending basic civil rights protections to gay, lesbian, and bisexual citizens. In one especially ridiculous passage, he concluded that it is impossible for any law to burden or penalize gays and lesbians because we are not readily identifiable as a group.

I felt a twinge of guilt when I read that decision. Perhaps if I had come out to him, he would not have considered gay and lesbian people invisible. Perhaps I should have tried to enlighten him as to the numbers of gay and lesbian attorneys, judges, and others with whom he had daily contact. But such “what if” games generally torture rather than inform us. In this particular situation, I probably would have found myself unemployed and the judge would have remained unenlightened. But I will never know with certainty.

After my clerkship I joined the litigation group of a major international law firm. It was not the type of environment where bursting out of the closet would be a career-advancing move, but as I progressed through my early thirties draped in corporate lawyer drag, life in the closet became more and more

uncomfortable. AIDS was ravaging the gay community while the government ignored the plague and the far right exploited it as a sign from God that homosexuality is an abomination. Local and state laws banning anti-gay discrimination were being successfully challenged by "Christian" fundamentalists and others opposed to "special rights" for gay and lesbian citizens. The gay and lesbian community itself was divided over issues such as the distribution of limited AIDS resources and the in-your-face activism of organizations advocating, among other things, the "outing" of public persons rumored to be gay or lesbian. If people like me, who were directly affected by these events, would not speak up, then who would speak for us?

But even while gay and lesbian activists were imploring people to come out as a much-needed display of strength in numbers, I was finding it easy to remain uncoun- ted. In fact, my years at the law firm confirmed my long-held suspicion that people's perspectives on sexual orientation are limited almost entirely to their own experiences. That is, anyone who has significant contact with a gay or lesbian friend, relative, coworker, or neighbor becomes open to the possibility that not everyone is heterosexual. The opposite is also true: people who have had no meaningful contact with a gay or lesbian person assume that everyone they meet fits the Ozzie and Harriet model of sexuality. Since virtually everyone I worked with at the law firm fell into the latter category, issues relating to my sexual orientation were never raised. Co-owning a house with another woman and speaking openly of our shared lives—vacations, family gatherings, holiday plans, and the like—did not disturb my coworkers' assumptions about me. In fact, the one time when I took a gay male friend to a firm social function resulted in months of inquiries about the status of this assumed romance.

The invisibility phenomenon allowed me to remain closeted without making any deliberate effort to hide my sexual orientation. Since I was not actively deceiving anyone, it was easy to rationalize that it was others' perceptions of me, and not my personal choice, that created my closet. I soothed the occasional I-should-be-doing-more twinges of guilt by writing big checks to organizations that furthered gay and lesbian causes.

Within my first year at the firm I decided to direct my career path toward teaching law. I loved the law as a discipline, and I had heard "academic freedom" mentioned again and again as one of the many benefits of teaching. I came to view the academic environment as one in which I could study and write about any topic of interest to me, including sexual orientation, without jeopardizing my career.

I had spent five years with the firm when I was invited to apply for a visiting assistant professorship at Cleveland-Marshall, my alma mater. Throwing caution and sixty percent of my annual salary to the wind, I jumped at the opportunity. Toward the end of my visitorship I was offered a tenure-track position, and I accepted.

The cardinal rule of that period of professorial purgatory known as pretenure is *Do not offend the dean or any faculty member who is more senior than you*. This includes, of course, everyone else on the faculty. Adherence to the rule caused

me to reflect quite a bit on the relevance (or lack thereof) of my sexual orientation to my position as an assistant professor.

On one hand, the relevance was zero. I was teaching Contracts and Civil Procedure, researching and writing on litigation-related issues, and performing the usual service obligations. In most of these work-related situations, issues relating to sexual orientation did not arise. On the other hand, I was forging long-term professional and personal relationships with faculty and staff and serving as a role model to my students. And academic freedom really did mean that I could talk and write about whatever legal issues I found of interest. There could not be a better forum in which to address the many personal, legal, and political issues, as well as the myths and misconceptions, surrounding sexual orientation. I spent many hours during my second year of teaching contemplating the risks and benefits of coming out.

One concern was blatant bias. Name-calling I could handle, but I didn't like the possibility of being attacked in the dark law school parking lot by a bigot wielding a baseball bat. Another prospect was insidious discrimination, which might be even harder to combat than physical confrontation. Tenured colleagues offended by my sexual orientation could, for example, defeat my application for tenure by unjustly criticizing my job performance. Their real motivations for rejecting me would never see the light of day, and perhaps they themselves would not realize the impact of their anti-gay animus on their assessment of me. A third possibility was that I would be perceived as being favored as a minority; I have seen persons of color struggle with the presumption that minorities achieve their professional status through affirmative action rather than their own merit.

But my biggest reservation about making my sexual orientation known was the label that would automatically attach, and all the baggage the label carries with it. For better or worse, I would be known as "the lesbian professor," and everything I said and did would be judged against the stereotypes associated with "lesbian." Individual characteristics which I have struggled to develop or defeat during almost four decades on this planet would become irrelevant. I would be reduced to one dimension.

I have always found the "lesbian" label disturbing because it defines me by the sexual acts in which others assume I engage. If I could convey but one message to nongay persons, it would be that homosexuality is not about sex per se. It is for me, and for most lesbians I know, about being attracted to a person of the same gender on many levels—intellectual, emotional, and spiritual, as well as physical. It is simply about loving someone and having them love you back. It is about sharing your life with a partner so that the roads you travel, individually and together, are made smoother by your deep understanding of one another. Being an out professor, to me, meant trying to convey this message within my law school community and beyond.

I also thought that by being out I might help dispel the common myth embodied in the term "alternative lifestyle." There is no such thing as a gay or lesbian "lifestyle." Gay and lesbian persons have widely varying educational levels, employment situations, social and economic status, family structure,

political inclinations, personal interests, religious beliefs, and housing arrangements. And because the heterosexual population is equally diverse, the labeling of gay and lesbian lives as "alternative" is patently ridiculous. Alternative to what?

Another consideration in my decision to come out was the common assumption that a gay person's friends and acquaintances must all be gay. I was not concerned with the negligible impact on my heterosexual associates, but I was acutely aware that some of my homosexual friends might be outed by association once I made my sexual orientation public. For some of them, that could mean alienation from family of origin or loss of employment. I firmly believe that each person has the right to keep his or her sexual orientation a private matter; that commitment to individual autonomy—ironically—complicated my own personal decision.

Balanced against all the potential negatives were the significant benefits I anticipated from being out. I would be a role model to my students, both gay and nongay, conveying by example the message that you must maintain your integrity and be proud of who you are, even if doing so involves risk of rejection and ridicule. Another clear benefit would be greater openness with my colleagues about my personal life. But what ultimately convinced me that I should reveal my sexual orientation was not any anticipated consequence of coming out of the closet. Rather, it was a consequence of staying in: the disabling ramifications of remaining invisible.

Toward the end of my second year on the faculty I began to realize that many issues relating to sexual orientation were not being addressed. No active organization existed in the law school or the university for lesbian, gay, bisexual, or transgendered students. Only one employee of the law school was out, and that was not by choice, but because a former secretary had made an unjust accusation of sexual harassment. Other gay and lesbian personnel expressed to me privately their fears of negative reactions from coworkers and supervisors if their sexual orientation were known. The university's written policy prohibiting discrimination based on sexual orientation did not appease their fears; it was at best aspirational, I was told, and at worst a cruel irony compared to what was perceived as pervasive anti-gay sentiment. No law courses fully addressed the legal issues relating to sexual orientation, and the subject was seldom broached except in the few classes where it could not be ignored, such as Family Law and Constitutional Law. In short, my initial rationalization that sexual orientation issues were irrelevant to my job gave way to the more accurate perception that the issues had been there all along, but the persons most directly affected felt too threatened to raise them.

Students' answers on a final examination I gave in Contracts provided further evidence of the invisibility of the gay and lesbian population at the law school. In one fact pattern, I used the androgynous names Terry and Chris. The facts were as follows. Shortly after they had begun cohabiting, Terry asked Chris, and Chris agreed, to cease all outside employment and stay home and take care of Terry's young son from a former relationship. For several years Chris stayed home to care for the child and, at Terry's request, worked on



restoring a 1957 Ford Thunderbird that Terry owned. Then the couple broke up. Chris sued Terry, claiming that they had a contract which entitled Chris to financial compensation for quitting outside employment, caring for the child, and restoring the car.

The students' answers reflected their assumptions about the parties' sexual orientation. In a class of seventy students, only two noted the possibility that Terry and Chris might be a same-sex couple. One of the two further concluded, without explanation, that if Terry and Chris were homosexual, the court would automatically declare any contract between them void as contrary to law or public policy. The exam confirmed my suspicion that the presumption of heterosexuality was alive and well in the law school classroom.

On a more personal level, an important aspect of my life was completely invisible to students with whom I'd been working an entire year. And, unfortunately, invisibility is self-perpetuating. As long as people who work alongside gays and lesbians and share life with us on a daily basis are unaware of our sexual orientation, we lose a powerful opportunity to challenge—and change—negative stereotypes. Because we fail to develop honest relationships, intolerance continues. And because of the continuing intolerance and hostility, gay and lesbian persons remain in the shadows, unwilling to take the risks of coming out.

In my telling, the risk-benefit analysis I undertook in deciding whether to reveal my sexual orientation seems somehow coldly calculated, an entirely intellectual exercise. The truth is quite the opposite. But I find it almost impossible to describe the emotional turmoil that accompanied the process. One moment I would be repressing the impulse to burst out singing the gay anthem "I Am What I Am" in the middle of class. The next moment I would be wrestling with an equally strong desire to retreat into the darkest corner of the closet, finding safety and comfort in the Catholic model of living by someone else's expectations. Finally, after all my intellectual weighing of anticipated consequences, my decision to come out was based primarily on my gut feeling that it was the right thing to do.

I did not rush to place an announcement in the law school newspaper or throw a coming-out party. Since the dean of a law school does much to establish its climate, my first thought was to determine my dean's views on sexual orientation. I contacted a colleague at another law school who was well acquainted with another law professor who was a good friend of my dean. Through this circuitous route I relayed the question to my dean: Would you be comfortable having an openly gay or lesbian professor on your faculty? Fortunately for me, the answer was yes, and he and I discussed the matter shortly thereafter.

Over the next few years, still in my pretenure period, I discussed my sexual orientation with the five or six colleagues with whom I worked most closely. I assumed that other people would eventually pick up the information through the grapevine. Presentations I made to law school faculty and staff on "the unmet needs of our lesbian, gay, and bisexual students" and on a pro bono case I was litigating in Wyoming concerning a lesbian mother's custody battle

for her children probably clued in anyone who still remained unaware of my sexual orientation to that point. But I did not make those presentations until I had tenure. While some may think I was overly cautious if not cowardly, I remain convinced that my timing was appropriate.

The primary advantage of going public after the tenure decision was that I had established myself as a respected member of the law school community. I had worked diligently on my teaching, scholarship, and community service, and my dedication was reflected in favorable evaluations by students and fellow faculty. I did not have to worry that the evaluations were tainted by pro-gay sympathy or anti-gay animus. By achieving status as a bona fide participant in the life of the law school, I had made it difficult for anyone to automatically devalue me when my sexual orientation became known.

Negative backlash has been virtually nonexistent. Several members of the faculty and staff became decidedly distant after learning that I am a lesbian, and a few are still noticeably uneasy when in my presence. Several of my coworkers struggle with the dissonance I create by being both an individual whom they respect and a member of a group they despise. Since their despising is, in most instances, the result of long-term religious or cultural indoctrination, I can do little to counter it. That they struggle with the issue is, in my view, progress.

Overall, I have not been limited or defined by stereotyping. As I've said, I do get tired of being the resident expert on every issue relating to sexual orientation. On the other hand, fielding such questions provides an opportunity to dispel people's misconceptions and to expand their perspectives. The willingness of my students and colleagues to pose questions and to be educated by the answers constitutes, again, a modest yet significant measure of progress toward a more tolerant world.

I have not noticed much difference in my daily interaction with students since my sexual orientation became public knowledge. Gay and lesbian students who seek my guidance ask me whether being out will jeopardize their standing at the law school, their admission to the bar, or their future career opportunities. Like their heterosexual counterparts, they also ask me about more mundane matters such as course selection and job searches, or we discuss personal matters involving their families of choice, their friends, and their families of origin. I feel honored by their confidence in me and humbled by my inability to provide specific solutions to their dilemmas. As I caution my students, I am neither a professional counselor nor a psychic. Nor does my being a lesbian give me special insight about their own sexual orientation issues that they alone can resolve. The best I can do is let the students talk, try to raise a few points they may not have considered, and then send them off to make their own decisions and live with the consequences.

My limited involvement in the formation of a organization for gay, lesbian, and bisexual law students has been my most challenging experience thus far. The students interested in such an organization are roughly divided into two groups. The smaller group is openly gay and almost militant in believing that to live otherwise is morally wrong. The larger group thinks every person has

the right to determine whether his or her sexual orientation is a public or private matter. My efforts to negotiate an acceptable middle ground on which to base a single, cohesive organization have been totally ineffective, and the new organization consists mostly of the more militant students. I have utmost respect for them and for their organization, but I am concerned that by initially consisting of fairly radical gay and lesbian students, the organization will discourage participation by students who would most benefit from its support. I also fear that when the current leaders graduate, no students will step forward to maintain an organization perceived as radical and potentially disruptive. But whatever its future, the organization has had an interesting and important inaugural year, and its mere existence makes an important statement of inclusion if not acceptance.

My classroom demeanor and style have not changed since my coming out, although I am getting more comfortable about using hypothetical situations that bring sexual orientation issues into class discussions. The typical reaction among my heterosexual students is usually something like "Gee, I've never considered that possibility." Interestingly, it is my gay and lesbian students who seem most uneasy when these topics are raised. I am sensitive to their anxiety, but their reaction has not compelled me to change my approach. I hope that inclusion of the issues which directly affect their lives will eventually empower rather than intimidate them.

The focus of my scholarship has not changed dramatically since my going public. I continue to write primarily on litigation-related matters which are near to my heart, especially in the area of civil justice. But I have expanded my writing repertoire to include sexual orientation issues. I have published one lengthy law review article entitled "The Immorality of Publicly Outing Private People," and I have completed another article, based on my work as co-counsel in the Wyoming case, which addresses the legal and tactical complications that arise when gay or lesbian parents are accused of sexually abusing their children.

I could have written these two articles without making my own sexual orientation public. In fact, what I have wrestled with in writing on sexual orientation issues has little to do with revealing my own orientation. Rather, it is the emotional toll inherent in researching and writing about issues that so directly touch my own life.

In my article on outing, for example, I recounted the history of blatant and often violent discrimination against gay and lesbian people—women burned at the stake during the Salem witch-hunting era, men and women mutilated and murdered in the Nazi death camps, today's targets of gay bashing. They suffered unspeakable atrocities because of a single characteristic that I share.

My research for the piece on custody and visitation revealed equally disturbing data. I found case after case where judges perpetuated the stereotypes of gay and lesbian people as sexual perverts, scofflaws, and child molesters and, on the basis of these myths rather than the facts of the case, deemed the homosexual parent morally unfit to have significant contact with his or her own children. Even more disturbing are the cases where the judges make a thinly veiled effort to hide their bias behind spurious factual findings that the

gay or lesbian parent is unfit for reasons supposedly unrelated to sexual orientation. And every judicial opinion I read which condemns homosexuality condemns me.

My increased awareness derived from my research and writing has caused me to be alternately enraged by the injustice done to gays and lesbians and depressed by our ineffectiveness at combating the misconceptions that fuel the injustice. It also has affirmed my conclusion that being out is a small but potentially effective way to correct the misinformation which breeds intolerance and hate.

Knowing that being out is the right thing to do does not, however, make it the easy thing to do. Two recent events have made that clear to me.

First, our dean, who has been very supportive of me, announced his resignation. What happens if the next dean is rabidly homophobic? Or—even worse—publicly liberal on gay issues but privately homophobic? The new dean may completely change the atmosphere of the law school, and may have a major impact on my daily life and that of my colleagues. Clearly the new dean will—and should—be selected on much broader grounds than his or her views on sexual orientation, but the possibility of replacing an ally with a antagonist on this uniquely personal issue is quite unsettling.

The second event is the university's review of its benefits package for employees. A university-wide committee has been organized for this task, and I raised with several committee members the possibility of extending coverage to domestic partners. The lengthy survey sent by the university to employees contained one statement on this topic to which respondents were supposed to indicate their level of agreement: "I believe that benefits should be offered to employees' non-married domestic partners, *even if it might increase costs*" (emphasis added).

That statement made me realize that we have made little progress towards equality since I studied family law fourteen years ago. The unnecessary use of the term "non-married" carries a ton of emotional baggage: it connotes relationships not sanctioned by law or, for persons who do have the option of legally sanctioned marriage, a willful choice to reject traditional mores. The reference to possibly increased cost essentially guarantees what the response will be. But the real problem is not the wording of the question: it's the fact that the question was posed. An institution that truly does not discriminate on the basis of sexual orientation provides benefits to gay and lesbian partners as it provides benefits to wives and husbands.

Despite these occasional reminders that I still must fight to fit in, I remain optimistic. My greatest hope is that by being out and by sharing my experiences in the forums available to me, I can help us move forward a step or two on the long, long journey towards a society that is not merely tolerant of individual differences, but truly accepts those differences. I know I will have succeeded if I am remembered by my former students and colleagues as "a good law professor who happened to be lesbian," rather than "that lesbian law professor." Time will tell.